

OFFICIAL
EXHIBITS

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF NORTHERN INDIANA PUBLIC)
SERVICE COMPANY FOR APPROVAL OF)
NIPSCO'S 7-YEAR PLAN FOR ELIGIBLE) CAUSE NO. 44370
TRANSMISSION, DISTRIBUTION AND)
STORAGE SYSTEM IMPROVEMENTS,)
PURSUANT TO IND. CODE § 8-1-39-10(a).)

PETITION OF NORTHERN INDIANA PUBLIC)
SERVICE COMPANY FOR (1) APPROVAL OF A) CAUSE NO. 44371
TRANSMISSION, DISTRIBUTION AND)
STORAGE SYSTEM IMPROVEMENT CHARGE)
("TDSIC") RATE SCHEDULE, (2) APPROVAL)
OF NIPSCO'S PROPOSED COST)
ALLOCATIONS, (3) APPROVAL OF THE) APPROVED: SEP 23 2015
TIMELY RECOVERY OF TDSIC COSTS)
THROUGH NIPSCO'S PROPOSED TDSIC RATE)
SCHEDULE, AND (4) AUTHORITY TO DEFER)
APPROVED TDSIC COSTS, PURSUANT TO IND.)
CODE CH. 8-1-39.)

ORDER ON REMAND

Presiding Officers:

David E. Ziegner, Commissioner

David E. Veleta, Administrative Law Judge

On July 19, 2013, Northern Indiana Public Service Company ("NIPSCO" or "Petitioner") filed a Petition, docketed as Cause No. 44370, for approval of a 7-year plan for eligible transmission, distribution, and storage system improvements ("7-Year Plan"), pursuant to Ind. Code § 8-1-39-10(a). On the same day, NIPSCO filed a separate Petition, docketed as Cause No. 44371, for: (1) approval of a transmission, distribution, and storage system improvement charge ("TDSIC") Rate Schedule, (2) approval of NIPSCO's proposed cost allocation, (3) approval of the timely recovery of TDSIC costs through NIPSCO's proposed TDSIC Rate Schedule, and (4) authority to defer approved TDSIC costs, pursuant to Ind. Code ch. 8-1-39. On February 17, 2014, the Commission issued its Orders in Cause Nos. 44370 ("44370 Order") and 44371 ("44371 Order").

In the 44370 Order, the Commission held: (1) the projects contained in Year 1 of NIPSCO's 7-Year Plan are "eligible transmission, distribution, and storage system improvements" within the meaning of Indiana Code § 8-1-39-2; (2) municipal lighting projects are eligible for TDSIC treatment as economic development projects when selected in accordance with the findings set forth in Paragraph 6.D.; (3) the project categories contained in years two through seven of NIPSCO's 7-Year Plan are presumed "eligible transmission, distribution, and storage system improvements" within the meaning of Ind. Code § 8-1-39-2, subject to further definition and specifics being

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provided through the plan update proceedings; (4) the 7-Year Plan is reasonable subject to the modifications within the Order; (5) NIPSCO's proposed definitions of key terms for purposes of interpreting Ind. Code ch. 8-1-39 are approved; and (6) NIPSCO's proposed process for updating major changes to the 7-Year Plan in sub-docket proceedings as discussed in Paragraph 6.G. is approved.

In the 44371 Order, the Commission: (1) authorized NIPSCO to implement its TDSIC Rate Schedule pursuant to Ind. Code § 8-1-39-9(a) to effectuate the timely recovery of 80% of eligible and approved capital expenditures and TDSIC costs; (2) ordered NIPSCO to use a full weighted average cost of capital, including zero-cost capital, to calculate pretax return; (3) authorized NIPSCO to defer post in service TDSIC costs, including carrying costs, on an interim basis until such costs are recognized for ratemaking purposes through NIPSCO's proposed TDSIC mechanism or otherwise included for recovery in NIPSCO's base rates in its next general rate case; (4) approved NIPSCO's proposed allocation of transmission and distribution project costs; (5) authorized NIPSCO to defer 20% of eligible and approved capital expenditures and TDSIC costs and to recover such deferred expenditures and TDSIC costs in its next general rate case; and (6) authorized NIPSCO to adjust its authorized net operating income to reflect any approved earnings associated with the TDSIC for purposes of Ind. Code § 8-1-2-42(d)(3). The Commission also held that, for purposes of satisfying Ind. Code § 8-1-39-14, NIPSCO's proposed calculation that compares the increase in TDSIC revenue in a given year with the total retail revenues for the past 12 months is consistent with the TDSIC statute.

On March 13, 2014, the Indiana Office of Utility Consumer Counselor ("OUCC") filed a Notice of Appeal relating to the 44371 Order. On March 19, 2014, the NIPSCO Industrial Group ("Industrial Group") filed Notices of Appeal relating to both the 44370 Order and the 44371 Order. On April 28, 2014, the Indiana Court of Appeals issued an order to consolidate the appeals of the 44370 Order and the 44371 Order. On April 8, 2015, the Indiana Court of Appeals issued an Opinion ("Appellate Order") holding among other things: "the Commission erred by approving NIPSCO's seven-year plan given its lack of detail regarding the projects for years two through seven." *NIPSCO Indus. Grp. v. N. Ind. Pub. Serv. Co.*, 31 N.E.3d 8, 8 (Ind. Ct. App. 2015).

On May 26, 2015, the OUCC, the Industrial Group, United States Steel Corporation ("U.S. Steel") and NIPSCO (the "Settling Parties") filed a Stipulation and Settlement Agreement (the "Settlement Agreement") in Cause No. 44370 and Cause No. 44371 to resolve all issues raised and addressed by the Appellate Order on remand to the Commission.

On June 12, 2015, NIPSCO and the OUCC filed direct testimony in support of the Settlement Agreement in Cause No. 44370 and Cause No. 44371. On June 16, 2015, the Commission held an Attorneys' Conference to address procedural matters in the remand proceedings. As a result of the discussion that took place at the attorneys' conference, the Presiding Officers issued a docket entry on June 17, 2015, establishing a procedural schedule. On June 17, 2015, the Settling Parties filed a Motion to Consolidate for Purposes of Remand, which was granted on July 8, 2015. No Non-Settling Party filed testimony opposing the Settlement Agreement.

On July 15, 2015, the Presiding Officers issued a docket entry requesting that the Settling Parties respond to five questions. On July 17, 2015, NIPSCO filed its responses to the July 15 docket entry questions.

An evidentiary hearing was held in this matter on July 20, 2015, at 1:30 p.m., in Room 222, PNC Center, 101 West Washington Street, Indianapolis, Indiana. NIPSCO, the OUCC, Indiana Municipal Utilities Group ("Municipal Utilities"), Industrial Group, U.S. Steel and NLMK, Indiana appeared and participated at the hearing. No party opposed the Settlement Agreement, and during the hearing, counsel for the Municipal Utilities provided an update on the status of the municipal lighting program approved as part of the 7-Year Plan in the 44370 Order and described the Municipal Utilities' expectation that the municipal lighting program would be included as part of NIPSCO's next electric TDSIC plan. No members of the general public were present or sought to testify.

Having considered the evidence and being duly advised, the Commission now finds:

1. **Notice and Jurisdiction.** The consolidated causes are pending before the Commission pursuant to the Appellate Order, which reversed in part, affirmed in part, and remanded the 44370 Order and 44371 Order. Furthermore, notice of the hearing in these Causes was given as required by law. NIPSCO is a public utility as that term is defined in Ind. Code § 8-1-2-1(a). Under Ind. Code § 8-1-39-10, the Commission has jurisdiction over a public utility's seven year plan for eligible transmission, distribution, and storage improvements. Therefore, the Commission has jurisdiction over NIPSCO and the subject matter of the proceeding.

2. **NIPSCO's Characteristics.** NIPSCO is a public utility organized and existing under the laws of the State of Indiana and having its principal office at 801 East 86th Avenue, Merrillville, Indiana. NIPSCO is engaged in rendering electric and gas public utility service in the State of Indiana and owns, operates, manages and controls, among other things, plant and equipment within the State of Indiana used for the generation, transmission, distribution and furnishing of such service to the public.

3. **Settlement Agreement.** The terms of the Settlement Agreement are as follows:

A. All Settling Parties will vigorously defend this Settlement Agreement at the Commission.

B. All Settling Parties will vigorously defend any Commission order approving this Settlement Agreement in its entirety should such order be appealed by a non-settling party.

C. Nothing in this Settlement Agreement precludes any party from taking a contrary position in any other proceeding, provided that no party will deny the enforceability of, or attempt to deprive any other party of the benefit of, any provision in this Settlement Agreement.

D. The record in Cause No. 44370 will be re-opened to: (a) clarify that in all future TDSIC filings, the level of detail in Petitioner's Exhibit TAD-R1, submitted as a rebuttal exhibit in Cause No. 44370, will be provided in NIPSCO's direct case; (b) submit the most current list of 2014 and 2015 projects into the record (i.e., Petitioner's Exhibit 1-A, Exhibit Electric Plan Update-2 (Confidential) filed in Cause No. 44371-TDSIC-2); (c) clarify that in all future TDSIC filings, for the underground cable replacement, transmission and distribution line replacement, and economic development, programs described in the prefiled direct testimony of Timothy A. Dehring in Cause No. 44370 (Section IV, pages 25-34 which provided the explanation of these programs and projects in detail), NIPSCO will provide updated estimated costs for each program by year; and (d)

submit the most current version of Petitioner's Exhibit TAD-R1 (i.e., Petitioner's Exhibit 3-C (Confidential) filed in Cause No. 44371-TDSIC-2), sorted by year, removing projects that are not expected to be replaced during the 7-Year Plan (i.e., no year).

E. NIPSCO agrees to cease collecting the current Electric TDSIC-1 factors on or about June 1, 2015.

F. All monies that have been collected through NIPSCO's Rider 688 (Adjustment of Charges for Transmission, Distribution and Storage System Improvement Charge) pursuant to the Commission's November 25, 2014 Order in Cause No. 44371-TDSIC-1 will be refunded with interest at the rate of 6% via Rider 688 upon approval of this Settlement Agreement to the rate classes from whom NIPSCO collected the monies.

G. NIPSCO agrees that rather than implementing a new TDSIC factor to recover costs incurred in connection with its current 7-Year Plan, NIPSCO will defer, as a regulatory asset, 100% of all TDSIC costs, as defined in Ind. Code § 8-1-39-7, incurred since March 1, 2014, in connection with its 2014 and 2015 eligible transmission, distribution, and storage system improvements, in a manner consistent with the current deferral of 20% of the costs approved in Cause No. 44371, until such capital expenditures and TDSIC costs, including depreciation, allowance for funds used during construction, and post in service carrying costs are recovered as part of a general rate case, consistent with the requirements of Ind. Code § 8-1-39-9(b).

H. The deferred amounts will be allocated pursuant to the allocation approved in the subsequent general rate case proceedings.

I. NIPSCO will file an electric general rate case proceeding by December 31, 2015.

J. NIPSCO will file a new 7-Year Electric TDSIC Plan following the filing of its next electric general rate case proceeding.

K. All parties reserve their rights to raise any issues in NIPSCO's next electric general rate case and new 7-Year Electric TDSIC Plan filing.

4. Summary of evidence.

A. NIPSCO's testimony. Frank A. Shambo, Vice President, Regulatory and Legislative Affairs for NIPSCO, testified the Settlement Agreement is intended to resolve how all issues addressed in the Appellate Order should be handled on remand to the Commission. He stated the basic framework of the Settlement Agreement is that the Settling Parties agreed to refrain from filing a Petition to Transfer the Appellate Order to the Indiana Supreme Court and a Settlement Agreement between the Settling Parties would be submitted to the Commission to resolve all issues on remand.

Mr. Shambo identified the substantive terms of the Settlement Agreement and testified NIPSCO agreed to (1) pay reasonable attorneys' fees to the Industrial Group and U.S. Steel and (2) provide the OUCC up to \$200,000 for purposes of retaining a cost of service expert for NIPSCO's next general rate proceeding.

Mr. Shambo explained that NIPSCO will calculate the total moneys collected from its Rider 688 – Adjustment of Charges for Transmission, Distribution, and Storage System Improvement Charge and apply interest to these amounts, at the rate of 6%, from the date of collection through the date the Commission issues a final order in this remand proceeding (“Return Amount”). He explained that (1) NIPSCO will refund the Return Amount over a six month period to the rate that paid the total moneys; (2) the credit should begin the first day of the billing cycle following an Order approving the Settlement Agreement; (3) after the six month period, the Rider 688 factors would be set to \$0; and (4) any reconciliation based upon volumetric variations would be included in the first electric TDSIC tracker proceeding following the issuance of an Order in NIPSCO’s 2015 electric rate case.

Kurt W. Sangster, Vice President, Major Projects of NIPSCO, provided testimony to (1) clarify that in all future TDSIC tracker filings the level of detail in Petitioner’s Exhibit TAD-R1 (Confidential), submitted as a rebuttal exhibit in Cause No. 44370, will be provided in NIPSCO’s direct case; (2) submit the most current list of 2014 and 2015 projects into the record (i.e., Exhibit Electric Plan Update-2 (Confidential) filed in Cause No. 44371-TDSIC-2); (3) clarify that in all future TDSIC filings, NIPSCO will provide updated estimated costs by year for the underground cable replacement, transmission, and distribution line replacement, and economic development programs described in the prefiled direct testimony of Timothy A. Dehring in Cause No. 44370 (Section IV, pages 25-34 which provided the explanation of these programs and projects in detail); and (4) submit the version of Petitioner’s Exhibit TAD-R1 (i.e., Petitioner’s Exhibit 3-C (Confidential) filed in Cause No. 44371-TDSIC-2), sorted by year, removing projects that are not expected to be replaced during the 7-Year Plan (i.e., no year).

Mr. Sangster testified Remand Exhibit Electric Plan Update-2 (Confidential) is based on NIPSCO’s most recent updated plan filed in Cause No. 44371-TDSIC-2 (i.e. Exhibit Electric Plan Update-2 (Confidential)) and includes a listing of projects and cost estimates for all seven years of the plan. He stated that, consistent with the Settlement Agreement, Remand Exhibit Electric Plan Update-2 (Confidential) contains the most current list of 2014 and 2015 projects (i.e. Plan Update-2 filed in Cause No. 44371-TDSIC-2) and includes estimated costs for each program by year, including the underground cable replacement, transmission, and distribution line replacement, and economic development programs.

Mr. Sangster testified Remand Exhibit TAD-R1 (Confidential) identifies the projected year for replacement and estimated costs for each aging infrastructure asset included in years 2014–2020 of the 7-Year Plan. He stated that, consistent with the terms of the Settlement Agreement, Remand Exhibit TAD-R1 (Confidential) represents the most recently filed version of Petitioner’s Exhibit TAD-R1 (Confidential), which was filed as Petitioner’s Exhibit 3-C (Confidential) in Cause No. 44371-TDSIC-2, sorted by year, and does not include assets that are not expected to be replaced during the 7-Year Plan (i.e. no year).

Mr. Sangster testified the Settlement Agreement contemplates that NIPSCO will file a new 7-Year Plan following the filing of its next electric general rate case proceeding. He stated the level of detail shown in Remand Exhibit Electric Plan Update-2 (Confidential) and Remand Exhibit TAD-R1 (Confidential) will be provided in NIPSCO’s direct case in its new 7-Year Plan filing and will include estimated costs for each program by year. He explained that NIPSCO will continue to work with the OUCC and other stakeholders to make exhibits and information as user-friendly as possible for future TDSIC filings.

Additionally, Mr. Sangster provided testimony regarding the cost estimate and sponsored exhibits which provide support for the cost estimate for NIPSCO's 7-Year Plan.

B. OUCC's testimony. Barbara A. Smith, Director for the Resource Planning and Communications Division of the OUCC, provided testimony to support the Settlement Agreement. She testified that while the Settlement Agreement is the result of compromise between the Settling Parties, it is beneficial to ratepayers when viewed in its entirety.

Ms. Smith explained NIPSCO will clarify the level of project cost estimates and project scope detail to be included in all future NIPSCO TDSIC case-in-chief filings – both initial plan and updated tracker filings. She stated this level of detail, explained below, not only goes beyond the detail previously filed in the NIPSCO Electric TDSIC dockets, but also beyond the detail previously filed in other utilities' TDSIC dockets. She testified the OUCC sees this level of detail as the new minimum filing requirements for future utility TDSICs and recommends the Commission approve such.

Ms. Smith testified NIPSCO has agreed to terminate its current 7-Year Plan by ceasing the collection of Electric TDSIC-1 factors on or about June 1, 2015, and refunding all monies previously collected from ratepayers plus 6% interest. She explained this termination and NIPSCO's additional project and cost detail submitted in this Cause resolves the remand issues of presumption and lack of detail for years two through seven.

Ms. Smith explained the project-related information NIPSCO is obligated to include in this Cause and in both future 7-Year Plan and tracker filings. She stated the level of detail found in Petitioner's Exhibit TAD-R1 (submitted as a rebuttal exhibit in Cause No. 44370) contains the specific asset name, classification (such as breaker, transformer, etc.), voltage, year scheduled for replacement, nominal cost, normalized risk score at replacement, probability of failure percentage at replacement ("CoF") score, normalized CoF score and CoF factor. She stated the advantages of this data are that it lists the specific projects (versus using generic language such as "replace 3 transformers") as well as risk rankings and the planned replacement timing. She stated that it is important the utilities provide specific project prioritization in order to identify the critical assets most likely to fail.

Ms. Smith explained that NIPSCO commits to provide updated cost estimates by year for each of the following types of projects and the three programs identified in the Settlement Agreement (1) transmission and distribution system deliverability investments; (2) underground cable replacements; (3) system protection replacements; (4) 4kV system upgrade; (5) transmission substations; (6) transmission and distribution lines; (7) distribution substations; and (8) economic development. She stated that NIPSCO will provide the following in this Cause and all future NIPSCO Electric TDSIC Plan and tracker filings: modified 44370 Petitioner's confidential Exhibit TAD-R1 that includes new "Asset ID" column (Remand Exhibit TAD-R1 (Confidential)); modified 44371 TDSIC-2 Petitioner's confidential Exhibit 3-D, with unit costs broken out by the applicable categories of labor, materials, storage, freight and handling (Petitioner's Exhibit Remand-2-B (Confidential)), and provide all applicable escalators used to calculate future years from the actual base estimate figures (in this remand proceeding, NIPSCO is using 3%, which the OUCC considers reasonable); and program unit cost detail (as shown in Petitioner's Exhibit Remand-2-C (Confidential)), with the number of program units per year (as shown in Remand Exhibit Electric

Plan Update-2). In future filings, NIPSCO will continue to file details on actual direct capital dollars showing the variance by project from the last filed tracker (similar to Exhibit Electric Plan Update-2 (Confidential), pages 3 – 13, filed in TDSIC-2). For the upcoming Plan year, NIPSCO will provide the level of work order detail similar to NIPSCO's Material and Labor Estimate ("MLOG") (as shown in Petitioner's Exhibit Remand-2-A (Confidential) and as provided to the OUCC in previous electric and gas TDSIC filings).

Ms. Smith stated that NIPSCO has agreed to provide in all future 7-Year Plan and tracker filings a modified version of 44371 TDSIC-2 Petitioner's Exhibit 3-B (Confidential) that includes a new "Year Replaced" column.

Ms. Smith testified the detailed cost information by category NIPSCO will supply forms the basis of the asset costs shown in 44371-TDSIC-2, Petitioner's Exhibit 3-D. She stated the parties will then validate the inclusion of the actual project or program and verify the data to the specific proposed asset projects as shown in Remand Exhibit TAD-R1. She stated the OUCC and other interested parties can validate variances throughout the 7-Year Plan by having the data available on a particular project's labor, material, etc. She stated Exhibit 3-C also provides the year of planned replacement and the risk score anticipated in the asset's replacement year. She testified the information from these documents will help the OUCC pinpoint questions and concerns regarding cost and project variances satisfying the Remand issue of the Commission's presumption of TDSIC eligibility. Ms. Smith testified that by filing the above information in future TDSIC cases, NIPSCO appropriately retains the burden to prove TDSIC eligibility in its direct case.

Ms. Smith testified that pursuant to the Settlement Agreement, NIPSCO will defer as a regulatory asset in a manner consistent with its current 20% cost deferral, 100% of incurred TDSIC costs incurred beginning March 1, 2014, and until such capital expenditures and TDSIC costs, including depreciation, allowance for funds used during construction, and post in service carrying costs are recovered as part of a general rate case. She stated this deferral will be limited to monies spent on NIPSCO's 2014 and 2015 eligible transmission, distribution and storage system improvements, as well as the associated depreciation, allowance for funds used during construction and post in service carrying costs. The deferred amount will be allocated by the allocation approved in future general rate case proceedings.

Ms. Smith testified Section 13 states that NIPSCO will file an electric general rate case proceeding by December 31, 2015. She stated the OUCC and intervening parties will have the opportunity to do a more thorough review of NIPSCO's records and procedures than in the TDSIC trackers, given the wider scope of a base rate case and also the longer procedural timeframe of 300 total days as compared to a total 90 days for a TDSIC tracker.

Ms. Smith testified Section 14 states that NIPSCO will file a new Electric TDSIC Plan following the filing of its general rate case proceeding. She noted that under Ind. Code § 8-1-39-9(c), NIPSCO may not file for cost recovery associated with its approved TDSIC 7-Year Plan within nine months after the date on which the Commission issues an order changing its basic rates and charges.

Ms. Smith testified the OUCC and other intervening parties do not forfeit their rights to raise or challenge issues in either NIPSCO's rate case or in its next 7-Year Plan proceeding by being a party to the Settlement Agreement. She testified the Settlement Agreement does not resolve or pre-

determine ratemaking or other issues that will arise in either NIPSCO's next 7-Year Plan or tracker case to be filed after NIPSCO files its general rate case.

Finally, Ms. Smith explained NIPSCO will provide on an ongoing basis additional information which will allow for more thorough reviews and ensure that the TDSIC projects authorized by the statute will be more transparent and implemented in a cost effective manner. For these reasons, Ms. Smith stated that the Settlement Agreement is in the public interest. Finally, Ms. Smith testified the OUCC recommended the Commission approve the Settlement Agreement in its entirety.

5. Commission Discussion and Findings.

A. Standard for Commission Review of Settlement Agreements. Settlements presented to the Commission are not ordinary contracts between private parties. *United States Gypsum, Inc. v. Indiana Gas Co.*, 735 N.E.2d 790, 803 (Ind. 2000). Any settlement agreement that is approved by the Commission "loses its status as a strictly private contract and takes on a public interest gloss." *Id.* (quoting *Citizens Action Coalition v. PSI Energy, Inc.*, 664 N.E.2d 401, 406 (Ind. Ct. App. 1996)). Thus, the Commission "may not accept a settlement merely because the private parties are satisfied; rather [the Commission] must consider whether the public interest will be served by accepting the settlement." *Citizens Action Coalition*, 664 N.E.2d at 406. Furthermore, any Commission decision, ruling or order - including the approval of a settlement - must be supported by specific findings of fact and sufficient evidence. *United States Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coalition v. Public Service Co.*, 582 N.E.2d 330, 331 (Ind. 1991)). The Commission has carefully analyzed the evidence and the proposed Settlement Agreement to evaluate whether the proposed outcome is reasonable and in the public interest.

B. Evaluation of the Reasonableness of the Settlement Agreement and Whether It Serves the Public Interest. On February 17, 2014, the Commission issued an order in this Cause approving a seven-year plan for eligible transmission, distribution, and storage system improvements under Ind. Code § 8-1-39-10(a). *N. Ind. Pub. Serv. Co.*, Cause No. 44370, 2014 WL 1374824 (IURC).

On April 8, 2015, the Court of Appeals reversed the 44370 Order in part and remanded the case for further proceedings. *NIPSCO Indus. Grp.*, 31 N.E.3d at 8. The Court of Appeals determined that NIPSCO's seven-year plan did not contain enough detail for the Commission to determine whether the plan for years two through seven was reasonable or to determine a best estimate of the cost of the improvements. *Id.* The Court of Appeals also reversed the Commission's creation of a presumption of eligibility for projects in years two through seven of NIPSCO's plan without any statutory authority to do so. *Id.* at 9. Accordingly, a threshold consideration in the context of the remand is whether NIPSCO has submitted a 7-Year Plan that can be approved pursuant to the governing statute and the Court of Appeals' guidance. Importantly, an outcrop of an approved plan is the designation of eligible improvements (*See* Ind. Code § 8-1-39-10(b)), and it follows that to designate eligible improvements in a 7-Year Plan such improvements must be contained in and made a part of the 7-Year Plan.

In the remand proceeding, the Settling Parties submitted an updated 7-Year Plan and additional cost information in support of the Settlement Agreement. Specifically, NIPSCO submitted Remand Exhibit Electric Plan Update-2 (Confidential), which is based on NIPSCO's

most recent updated plan filed in Cause No. 44371-TDSIC-2. Remand Exhibit Electric Plan Update-2 contains the most current list of 2014 and 2015 projects and it includes estimated costs for each program by year, specifically the underground cable replacement, transmission and distribution line replacement, and economic development programs. Additionally, the Settling Parties submitted Remand Exhibit TAD-R1, which identifies each aging infrastructure asset and its projected year of replacement and the estimated cost for years 2014–2020 of the Plan.

After reviewing the prefiled testimony and exhibits in support of the Settlement Agreement, the Presiding Officers issued a docket entry on July 15, 2015, requesting a response from the Parties. Specifically, the Parties were asked “[i]s the 7-Year Plan that the Parties seek approval of comprised of Remand Exhibit Electric Plan Update-2, or it plus Remand Exhibit TAD-R1?” NIPSCO responded as follows:

The 7-Year Plan that the Settling Parties seek approval of is delineated in Remand Exhibit Electric Plan Update-2, which includes detailed information on investments for all 7 years of the plan. Remand Exhibit TAD-R1 is a further detailed summary of the risk model analysis of the larger assets that are included in Remand Exhibit Electric Plan Update-2, which is provided to support the plan.

Thus, Remand Exhibit Electric Plan Update-2 is the 7-Year Plan for which approval is sought. However, this would not seem to clear the deficiency identified by the Court of Appeals in the Appellate Order and framed above as this exhibit includes little more than project categories or programs in years three through seven. Specifically, Remand Exhibit Electric Plan Update-2 doesn’t define improvements at a level sufficient for designation as eligible improvements. The detail of Remand Exhibit TAD-R1 is presented as only a supporting document, rather than a declared component of the plan. Remand Exhibit TAD-R1 provides a much greater level of detail, specifically identifying improvements for which eligibility could be sought rather than programs or project categories. As the Commission noted in its Order in *Indiana Michigan Power Company*, Cause No. 44542, 2015 WL 2250624, at *11 (IURC May 8, 2015), “[b]ased on a closer examination of the statutory requirements and with the guidance from the Court of Appeals, we find that a utility’s 7-Year Plan should be sufficiently definite for the Commission to reasonably identify what projects will be completed and when.” In order to sufficiently identify projects, or improvements, to be completed as part of a utility’s 7-Year Plan, it is necessary that a utility submit detail at a reasonably defined individual improvement level as part of the plan. From a statutory perspective it is not sufficient that this information is filed in support of a utility’s 7-Year Plan. Instead, the individual improvement level detail must be included in the utility’s 7-Year Plan. Therefore, it would be expected that an approvable plan would contain an exhibit in the form of Remand Exhibit TAD-R1 as a part of a 7-Year Plan. As confirmed in the docket entry response NIPSCO’s witness stated that Remand Exhibit TAD-R1 was not part of the plan. Therefore, we find that the Settlement Agreement is not in the public interest because, if approved, the Settlement Agreement would allow a level of detail for NIPSCO’s 7-Year Plan that is not sufficient based on the guidance provided in the Appellate Order.

C. Monies collected through NIPSCO’s Rider 688. NIPSCO’s previously applied TDSIC factors were approved on an interim basis subject to refund pending the outcome of the appeals of Cause Nos. 44370 and 44371. *N. Ind. Pub. Serv. Co.*, Cause No. 44371 TDSIC 1, 2014 WL 6713574, at *18 (IURC November 25, 2014). Thus, since the Appellate Order found that

the Commission erred by approving NIPSCO's 7-Year Plan and such deficiency was not cleared in this remand proceeding it is necessary for NIPSCO to refund monies collected through Rider 688. We find that NIPSCO should make a compliance filing to accomplish such refund.

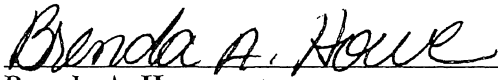
IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. Approval of the Settlement Agreement is hereby denied.
2. NIPSCO shall refund monies collected through Rider 688.
3. This Order shall be effective on and after the date of its approval.

STEPHAN, HUSTON, WEBER, AND ZIEGNER CONCUR; MAYS-MEDLEY ABSENT:

APPROVED: SEP 23 2015

**I hereby certify that the above is a true
and correct copy of the Order as approved.**


Brenda A. Howe
Secretary to the Commission